

**TO: Planning and Economic Development Committee**  
**FROM: Judy Daniel, Director, Planning and Development Department**  
**DATE: January 16, 2014**  
**SUBJECT: Short-Term Rentals Research and Options**

**BACKGROUND:**

In recent years the City of Asheville has experienced an increasing market desire for short-term rentals in residential neighborhoods. That market pressure has led to an increasing number of complaints about illegal short-term rentals, and more recently increasing pressure from advocates for them to become an authorized use.

The PED Committee requested that staff seek additional information on these uses and return with options for the Council to consider regarding how they are evolving and how other localities are addressing these trends. We found this to be an issue of great interest from both sides, with many options that could be considered.

Currently the City of Asheville does not allow short-term rentals in single-family zoning districts, defined as renting a dwelling unit (most often a single family home or accessory apartment, or less frequently a bedroom in a home) for a term of less than 30 days. The only options available for shorter rental terms are Bed and Breakfast Inns (allowed in the RM6, RM8, and RM16 zones) or the Homestay use (allowed in all the residential zones). Both are approved by staff as a use subject to special requirements (USSR).

Because of growing interest in this use from property owners and the expanding tourism market, the City looked into the potential of changing these restrictions seven years ago. After substantial evaluation a decision was made to not change this restriction, with concern from neighborhood residents being the primary factor. Despite this restriction complaints about short-term rentals continue. The number of complaints about specific rentals are moderate in number but can be time intensive, and staff hears substantial general concern about them from neighborhoods groups and legitimate lodging businesses (B&Bs and hotels).

Since the 2007 consideration the growth of the internet as a search tool has led to a dramatic expansion of many alternative forms of commerce, and traveler interest in renting furnished dwelling units for short stays has substantially increased. While these uses are in competition with both hotels and B&Bs, they are offering different products. Asheville has been primarily affected by two arms of this expansion:

The first attracts those who are looking for more affordable alternatives to hotels and B&Bs, who seek the "AirB&B" concept of renting a bedroom from a person looking for some occasional additional income. Those who rent to this market generally seem to see it as a means to assist with paying their rent, as the prices paid for that type of rental mean that they can host visitors a few times a month and get more income than they can from a long-term roommate.

The second attracts those who are primarily interested in a "home" setting in a convenient and attractive residential location. Those who rent out homes are normally either second home owners (who can subsidize the cost of their home through rentals) or those in the property business who generate more profit from short-term rentals than monthly renters.

Like many other “urban tourism” oriented places, Asheville has seen a substantial illegal proliferation of these types of uses. (A quick check of the primary internet sites reveals the many places that are available in the city.) Most cities, unless their economy is primarily based on short-term rental tourism (such as beach towns), either have not allowed these uses in their residential neighborhoods or have not found them to be a problem.

Complaints and Enforcement - Enforcement of the short-term rental ordinance is complaint based only, due to staffing constraints. Complaints fall into two categories:

- Specific complaints about a rented house whose tenants are creating parking, congestion, cleanliness, minor damage (car dents, landscaping, curb/retaining wall damage) or noise issues – or causing concern among neighbors who are disturbed by frequent transient occupants of a home. (Aggravating these complaints is that the neighbors are unable to hold the temporary residents accountable for their actions and property owners are often difficult to contact.)
- Specific complaints about housing being rented from those who have been offended by the use and have done their own internet research and provided contact information regarding homes being offered for rent in their neighborhoods.

Staff follows up on both types of complaints, and although the number of complaints is not overwhelming, the general resistance from neighborhood groups is consistent and follow-up on the use is time consuming and often difficult. While many operators who are contacted will agree to cease the use rather than face a fine, staff has also experienced where an individual will remove the posting from the site noted and then list it on another site – within weeks or months; or they will stop activity for a while, only to restart again later. It is also very reasonable to assume that there are many places that continue to operate without complaint as they are not offending their neighbors.

While staff currently experiences challenges with enforcement, and while the activity cannot be controlled entirely, the prohibition of short-term rentals in residential areas has allowed staff the ability to intervene when properties were poorly managed – effectively improving the harmony of the residential area.

Other Concerns - In addition to these types of complaints, the Bed and Breakfast Association and the Tourism Development Authority have expressed concerns since these uses are currently proliferating “under the table”, not meeting health and safety requirements, and not paying any hotel/motel tax or business taxes, yet providing competition for legal businesses that are following all regulations. The Coalition of Asheville Neighborhoods has also long opposed the expansion of this type of use.

There are other concerns as well. The loss of long-term rental units is seen as contributing to the shortage of rental housing in the city, especially smaller homes near downtown and transit routes. This type of renting is coming from those who rent homes as a business and it is not as much of a concern with the bedroom rentals.

Yet the use continues to proliferate, and the proponents are now petitioning staff and the Council for the opportunity to legitimize this business. Recently, a local advocacy group has been formed.

## **RESEARCH**

Staff research involved internet searches, information from the American Planning Association, and contact with other cities (see attached). While cities that are beach resorts have many examples of regulations for these uses, they are not wholly good examples for Asheville since they are usually either a very casual community where there is an expectation that there will be a high percentage of homes used for short-term rentals or they are very highly regulated resort development communities. In Asheville, the area of greatest conflict is rental desire in established neighborhoods where most people own or rent on a long-term basis. There is, therefore, not an expectation of disruption by short-term renters. Documents from that research are attached to this report.

## **CONFLICT WITH CURRENT REGULATIONS**

As previously stated, Asheville already allows two types of short-term rental lodging in residential areas – Bed and Breakfast inns (B&Bs) and Homestays. Both are permitted as a Use by Right Subject to Special Regulations (USSR) and have similar restrictions. A few have also been permitted through a conditional rezoning. The differences between these uses are outlined on the table below. These options work within neighborhoods because they are owner occupied, the regulations for them require off-street parking for their visitors, and the “on-site” management of the owners ensures that noise and other issues are managed effectively. The proliferation of illegal short-term rentals we are experiencing and hearing about conflicts with the requirements for these uses in two primary areas. A table in the Appendix summarizes and compares the current regulations for Homestays, B&Bs, and home rentals.

Homestay Use Options - Those who wish to rent out bedrooms in their homes on a short-term basis usually conflict with the existing standards because they live in homes smaller than currently allowed, they wish to rent an accessory apartment (or garage apartment) on their property, and they do not wish to be required to serve a meal. A primary concern if this option were expanded would be whether off-street parking is available. Allowing short-term bedroom rentals in popular neighborhoods where the already tight on-street parking would cause concern. This would be less likely to be an issue for the rental of “garage” apartments.

Short-Term Rental of Furnished Homes - The second area of conflict is those who wish to rent out homes that they own but do not live in as their primary residence. As noted, the majority of complaints we have received regarding this type of use are related to on-street parking, increased neighborhood activity, trespass, property damage from visitors and occasionally noise or cleanliness. We most often get the parking complaints about homes on narrow streets (with limited or no on-street parking), and in small lot, single-family, older or historic neighborhoods where these sorts of issues are quickly noticed and reported. These issues are less likely to be resolvable when the homeowner does not live in the area and there is not a local property management contact. And turning a home that has been a long-term rental into a vacation rental is removing a dwelling from an already tight rental market, leading to higher rents.

Conflict with the NC State Building Code – In addition to the concerns already expressed regarding neighborhood harmony, affordable housing, industry competition and enforcement, another concerning area of conflict should also be noted. The NC State Building Code is broken into two main sections – the Residential and Commercial. All one- and two-family structures (R-3 construction) fall under the Residential code, where the life-safety standards are significantly lighter given the nature of the use and the familiarity of the tenants with the structure. All other construction follows the commercial sections of the code either because of the use, occupancy type or sometimes because of the size/height of a structure. R-3 structures are classified as those where the occupants are primarily permanent in nature. The building code also distinguishes between permanent and non-permanent occupancy by defining

**Transient** as “the occupancy of a dwelling unit or sleeping unit for not more than 30 days.” Therefore, if the unit is occupied for less than 30 days, the occupancy is transient in nature and the structure cannot be R3, or single family, construction. To allow for occupancy less than 30 days would require that the structures be upgraded to R-1 or R-2 construction. So while the building code does not regulate the use itself, it can affect occupancy if the required change in classification is cost prohibitive or impractical. Given the intended purpose of single family construction, most homes are not equipped with the life-safety features that would easily allow reclassification. Retrofitting structures, while possible, may prove impractical in many cases.

Homes that are owner occupied and renting out rooms may have more flexibility under the code. In these instances, similar to many Bed & Breakfasts, these homes have an owner/manager who is informed and recognized as a critical component of an effective life-safety plan. How the allowances offered to Bed & Breakfasts may apply in a Homestay instance is not well known or researched but, on the surface, appears easier to achieve.

## **EVALUATION AND RECOMMENDATIONS**

After observing the continued expansion of these uses, illegally, over the past several years, and substantial research of other tourism oriented cities and current market and regulation trends, staff believes that some adjustments to the Homestay option could be made without substantial concern, but that changes to the Short-Term Home Rental option are not advisable at this time.

Although there will be continuing concerns regarding them whether changes are made or not, a benefit of the modifications is that they would allow properly managed operations to be made legal, allowing mitigation of the primary concerns. In addition, providing regulations that establish public safety standards and rules that limit inconvenience to the surrounding neighborhoods, provide the traveling public with a safe lodging option, and provide a “level playing field” for the full range of lodging options is a desirable outcome.

On the other hand, our research has shown that enforcement would continue to be a substantial concern as some would continue to operate illegally, and by allowing the use the City would need to more pro-actively enforce unpermitted lodging. That has seemed to be the response in studied cities. Even so, the reality is that without a very extensive enforcement effort, there is actually no realistic way to keep people from posting rooms or homes for short-term rental on the internet sites like VRBO or AirB&B, and if new or heightened standards are adopted, there will continue to be challenges related to compliance and oversight at these properties.

**SHORT-TERM HOME RENTAL** - In addition to impacts on neighborhood harmony, affordable housing, trespass, and damage to others, our research indicates that the NC State Building Code would not allow the use of residential structures for a short-term rental (defined as less than 30 days) without alteration to the structure to satisfy applicable safety requirements for a short-term stay (defined as “transient” in the code). To what degree improvements may be required would depend on the individual features of the home and are, in most cases, cost-prohibitive and/or impractical.

Staff is currently still researching the building code issues to understand whether there are options available to reconsider how the building code would apply in these situations – to date, staff has been unable to find a legal way to allow a short-term stay in a residential structure without alteration despite what appears to be other cities doing so. Staff recommends deferring consideration of short-term home rentals until a formal interpretation from the State may be obtained and/or additional research is performed.

**HOMESTAY** – This use is closest to requests we are seeing for short-term rental of bedrooms. The main elements required for a Homestay that conflict with the market trends include:

- No desire (on the part of the owners or renters) to provide any meals
- The prohibition on using an accessory structure
- The 2,500 sf minimum size for a structure
- The off-street parking requirement

As noted in the table following, possible changes to the Homestay use could allow renting rooms in smaller homes, allowing rental of an accessory unit to the home – either part of the home (such as a “basement” apartment) or in an accessory structure (such as an apartment above a garage), eliminating the meal requirement, and requiring proof of adequate insurance for the use. The use would continue to be a USSR and staff approved with proof of meeting the requirements. The proposed changes are noted in the table on the following page.

Staff believes these changes would be minimally disruptive since they adjust a use that already exists with built in safeguards such as required off-street parking. Staff strongly advises not allowing this use when off-street parking is not available. A key factor would be determining the minimum size of the dwelling, requiring further research into factors likely to cause disruption in smaller homes, more likely to be on smaller lots. Staff recommends changes to this category as outlined below, although some further research will be needed in several of these categories. We felt it best to get additional direction before completing any further research.

## HOMESTAY USE PROPOSED CHANGES

Element	Homestay Current	Homestay Options to Consider	Rationale for suggested options
Number of Rental Rooms	1-3 maximum	No change	
Occupancy Limit	Not noted	<i>No more than 5 unrelated individuals at any one time</i>	Reflects existing standard for SF homes
Size of Structure	2,500 sf	<i>Reduce size – more research needed to determine minimum size</i>	Allows more homeowners to participate, but could increase potential for conflict in higher density SF neighborhoods
Minimum Lot Size	Not noted	No change	
Length of stay	1 -14	No change	
Meal required	Yes - morning	<i>Eliminate requirement</i>	Reflect market trends, no observable disadvantage
Residence of owner on property	Required	No change	
Percent of structure use	Maximum 25% GFA	No change	
Age of structure	Not noted	No change	
Meet NC Building Code	Not noted	No change	
Primary use	Residence	No change	
Parking Requirement	Off-street: 1 per rented room + space for owner and employee – on the same lot and screened	No change	
Separation Requirement	500 feet from any other HS or B&B	No change	
Accessory Structure Rental	Not allowed	<i>Allow use with proof of legally permitted construction meeting city construction standards</i>	Allows use of these accessory units, but removes a unit from the long-term rental market.
Zoning Districts where use is a USSR	RS2, RS4, RM6, RM8, RM16	No change	
Employees Allowed	1 FTE	No change	
Annual safety inspection	Not currently required	<i>Require</i>	Increased safety for renters, but must check legality
Annual proof of insurance for the use	Not currently required	<i>Require</i>	Logical requirement for a business use in a residence
Approval runs with owner not with dwelling	Not currently required	<i>Require</i>	Ensures compliance and understanding of regulations by a new owner
Retail Activity	Not allowed	No change	

## APPENDIX

**Existing Regulations** - The City currently allows two types of short-term lodging in residential districts, Homestays and Bed and Breakfast Inns allowed under the standards noted below. The majority of B&Bs are located in historic districts or other older neighborhoods near downtown. The Homestay business use must be subordinate to the main residential use, whereas a B&B is operated primarily as a business.

Element	B&B Inn	Homestay	Home Rental
Number of Rental Rooms	8 in a residential district (4 MIN to 20 MAX)	1-3 maximum	No limit set
Size of Structure	3,500 sf	2,500 sf	No requirement
Minimum Lot Size	20,000sf	No requirement	No requirement
Length of stay	1-14 days	1 -14 days	1 month
Meal required	Yes - morning	Yes - morning	No requirement
Residence of owner on property	Required	Required	No requirement
Percent of structure use	No requirement	Maximum 25% GFA	Not applicable
Age of structure	Minimum 30 years	No requirement	No requirement
Primary use	Business	Residence	Depends on how often rented
Parking Requirement	Off-street: 1/room + space for owner and employee	Off-street: 1/room + space for owner and employee – on the same lot and screened	No requirement
Separation Requirement	500 feet from other B&B, HS or Boardinghouse	500 feet from any other HS or B&B	No requirement
Accessory Structure Rental	Permitted if less than 35% of GFA of primary dwelling	Not allowed	Not applicable
Zoning Districts where use is a USSR	RM6, RM8, RM16	RS2, RS4, RM6, RM8, RM16	Most districts
Employees Allowed	Not defined	1 FTE	No requirement
Retail Activity	Limited to social events	Not allowed	Not allowed

Homes can only be rented on a monthly basis, although staff has interpreted this in recent years to mean that they can only be rented once during a month, even if that one rental is for less than 30 days. These uses defined as noted below in the UDO:

**Homestay:** A private owner-occupied residence with one to three guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building.

**Bed and Breakfast Inn:** A private owner-occupied business with four to 20 guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the bed and breakfast inn is operated primarily as a business.

**Dwelling Unit:** One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. In no case shall a dwelling unit be rented or leased for intervals of less than one month.